

1 A bill to be entitled
 2 An act relating to public records; amending s. 119.12,
 3 F.S.; revising the circumstances under which a court
 4 must assess and award the reasonable costs of
 5 enforcement against an agency in a civil action to
 6 enforce ch. 119, F.S.; specifying circumstances under
 7 which a complainant is not required to provide certain
 8 written notice of a public records request; requiring
 9 a court to determine whether a complainant requested
 10 to inspect or copy a public record or participated in
 11 a civil action for an improper purpose; prohibiting
 12 the assessment and award of the reasonable costs of
 13 enforcement to a complainant who acted with an
 14 improper purpose; requiring the court to assess and
 15 award reasonable costs against the complainant if he
 16 or she is found to have acted with an improper
 17 purpose; defining the term "improper purpose";
 18 providing for construction and applicability;
 19 providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Section 119.12, Florida Statutes, is amended to
 24 read:
 25 119.12 Attorney ~~Attorney's~~ fees.—

26 (1) If a civil action is filed against an agency to enforce
 27 the provisions of this chapter and if the court determines that
 28 such agency unlawfully refused to permit a public record to be
 29 inspected or copied, the court shall assess and award, against
 30 the agency responsible, the reasonable costs of enforcement,
 31 including reasonable attorney attorneys' fees, against the
 32 responsible agency if the court determines that:

33 (a) The agency unlawfully refused to permit a public
 34 record to be inspected or copied; and

35 (b) The complainant provided written notice identifying
 36 the public record request to the agency's custodian of public
 37 records at least 5 business days before filing the civil action,
 38 except as provided under subsection (2). The notice period
 39 begins on the day the written notice of the request is received
 40 by the custodian of public records, excluding Saturday, Sunday,
 41 and legal holidays, and runs until 5 business days have elapsed.

42 (2) The complainant is not required to provide written
 43 notice of the public record request to the agency's custodian of
 44 public records as provided in paragraph (1)(b) if the agency
 45 does not prominently post the contact information for the
 46 agency's custodian of public records in the agency's primary
 47 administrative building in which public records are routinely
 48 created, sent, received, maintained, and requested and on the
 49 agency's website, if the agency has a website.

50 (3) The court shall determine whether the complainant

51 requested to inspect or copy a public record or participated in
 52 the civil action for an improper purpose. If the court
 53 determines there was an improper purpose, the court may not
 54 assess and award the reasonable costs of enforcement, including
 55 reasonable attorney fees, to the complainant, and shall assess
 56 and award against the complainant and to the agency the
 57 reasonable costs, including reasonable attorney fees, incurred
 58 by the agency in responding to the civil action. For purposes of
 59 this subsection, the term "improper purpose" means a request to
 60 inspect or copy a public record or to participate in the civil
 61 action primarily to harass the agency, cause a violation of this
 62 chapter, or for frivolous purpose.

63 (4) This section does not create a private right of action
 64 authorizing the award of monetary damages for a person who
 65 brings an action to enforce the provisions of this chapter.
 66 Payments by the responsible agency may include only the
 67 reasonable costs of enforcement, including reasonable attorney
 68 fees, directly attributable to a civil action brought to enforce
 69 the provisions of this chapter.

70 Section 2. This act applies only to public records
 71 requests made on or after the effective date of this act.

72 Section 3. This act shall take effect upon becoming a law.